

REMARKS

Claim 1 has been amended to incorporate the features of claim 2. Accordingly, claim 2 has been canceled. Claims 3 and 11 have been amended to provide proper antecedent basis. Claims 1, 14, 26, and 42 have also been amended to clarify that the guide can be aligned in "continuous variable adjustments." Claims 1, 3-43 and 45-51 are pending. No new matter has been added. Entry of these amendments is respectfully requested.

35 U.S.C. § 102(b)

The Examiner has rejected claims 1-3, 13-15, 25-27 and 42-43 under 35 U.S.C. § 102(b) as being anticipated by *Bowman et al.* (U.S. Patent No. 4,952,213 A).

Applicants respectfully traverse the rejection for at least the following reasons.

Bowman discloses a cutting guide 24 (FIG. 1) and three alignment assemblies (a varus/valgus alignment assembly, an anterior/posterior alignment assembly, and a proximal/distal alignment assembly) for aligning the cutting guide during a surgical procedure. *Bowman's* varus/valgus alignment assembly includes elements 72, 74, 76, 58, and 66. The anterior/posterior alignment assembly includes elements 80, 82, 84, and 90. The proximal/distal alignment assembly includes elements 120, 116, 118, 112, and 124. The varus/valgus and anterior/posterior assemblies facilitate adjustment along rotational paths, while the proximal/distal assembly facilitates alignment along a translational path.

Independent claims 1, 14, 26, and 42 have been amended to be patentably distinct from *Bowman* as follows.

First, the three alignment assemblies in *Bowman* are not capable of being used to align the cutting guide 24 in

"continuous variable adjustments" along each of their respective ranges of motion as recited in amended claims 1, 14, 26, and 42 of the present invention. Rather, *Bowman's* varus/valgus assembly and proximal/distal assemblies can only be adjusted in discrete, finite increments, as evidenced by the markings on element 72, as well as by elements 72, 74, and 76 which facilitate only selective adjustment. For the proximal/distal assembly, this is evidenced by elements 124 which are intended to be selectively engaged by element 118.

Second, each of the alignment assemblies in *Bowman* does not include "a rotational component adapted for manipulating" the cutting guide "upon rotation of said rotational component." Instead, the proximal/distal assembly in *Bowman* has no such component. Nor would it be obvious from the teachings of *Bowman* how (or even why) one skilled in the art would redesign the proximal/distal assembly to have such a feature in the claimed invention.

Thus, *Bowman* fails to disclose the claimed invention as recited in independent claims 1, 14, 26, and 42 of the present invention. Furthermore, dependent claims 3, 13-15, 25, 27, and 43 are patentable for at least the same reasons as respective independent claims.

Allowable Subject Matter

The Examiner indicated that claims 4-12, 16-24, 28-36 and 45-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for the allowable subject matter, but decline to rewrite the above dependent claims in independent form.

The Examiner indicated that claims 37-41 and 50-51 are allowed over the prior art of record.

Applicants thank the Examiner for the allowable subject matter.


As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 26, 2007

Respectfully submitted,

By 
Arthur S. Ortega
Registration No.: 53,422
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicants